

The City of Frederick, Maryland
PARKS & RECREATION COMMISSION

Minutes of February 17, 2010

Approved March 24, 2010

Members Present: J. Sill, J. Baldi, J. Myers, C. Effland, M. Lawrence, R. Jones

Staff Present: R. Myers, K. Winterstein, Alderman M. O'Connor

Regrets: C. Meierhoefer, M. Reading, D. Rivera

Meeting called to order by J. Baldi at 7:00 p.m.

- 1. Review of the January 20, 2010 minutes:

Motion by C. Effland to approve the minutes as submitted

2nd by J. Sill

All in favor.

- 2. Request by the Downtown Frederick Partnership to serve alcohol at the following 2010 events on Carroll Creek Urban Park:
 - a. Alive @ 5 - May 13, 27, June 10, 24, July 8, 22, August 12, 26 & September 9, 2010;
 - b. Dog Days of Summer - August 7, 2010;
 - c. Great Frederick Float - July 3, 2010.

Ms. Kara Norman was present and offered that Alive @ 5 will have a beer and wine garden, Dog Days of Summer will have a small beer garden and the Great Frederick Float will have a small wine garden at their respective events. All three (3) events have had alcohol approvals in years prior to this request.

J. Baldi stated that this group has had no issues or problems at any of these events in the past. Attendees can also choose to stand on the opposite side of the creek to hear the music, but not pay admission or purchase alcohol.

MOTION by J. Sill to recommend to the Mayor and Board of Alderman to approve the sales of beer and/or wine at the 2010 Alive @ 5, Dog Days of Summer and Great Frederick Float events.

2nd by J. Myers

ALL in favor.

***Staff will prepare an Executive Summary and notify the applicant the date of the M&B meeting this item will be heard.*

- 3. Request by Mr. Jason Mecler for The Patty Pollotas Fund to serve alcohol at their Charity Kickball Tournament scheduled for May 29, 2010 in Baker Park, Room 1. Mr. Mecler was present to offer that he and his group, Frederick Adult Coed Kickball Association (FACKA) was contacted by Comcast to raise funds for a cancer patient. Alcohol is to be served for two (2) to three (3) hours on the day of the event and they will be providing their own security for the event.

J. Baldi inquired if Mr. Mecler or FACKA has had this type of event in the past. Mr. Mecler stated they have a fundraiser on Carroll Creek annually with alcohol, but not in Baker Park. This event is to be all day.

M. O'Connor inquired about the timing of the beer garden. Mr. Mecler offered it will run from about 2:00 p.m. or 3:00 p.m. to 6:00 p.m.

R. Jones inquired about checking ID's. Mr. Mecler stated he has people who are trained for this and they will also hire off-duty police officers for this event.

J. Sill inquired if any events have been approved for alcohol in Baker Park last year. R. Myers offered that Brazil Days was approved for alcohol in Baker Park in 2009 as well as Pangaea for 2010 and Frederick's 4th event by the Office of Special Events. J. Baldi stated that Mr. Mecler's group has a good history in other locations and the Fund is a great organization. J. Myers and J. Sill concurred.

M. Lawrence inquired about where all the proceeds will go. Mr. Mecler stated that the proceeds and registration fees will go to Fund after it is netted out.

J. Baldi asked for a limit on the time to serve alcohol. J. Myers stated 2:00 p.m. to 6:00 p.m.

R. Jones inquired about the alcohol license. Mr. Mecler stated they will be applying to the Frederick County Liquor Board at the same time this process is moving forward. R. Myers stated that neither group depends on the other for licensing/approval.

MOTION by J. Sill to recommend to the Mayor and Board of Alderman to approve the sale of alcohol at The Patty Pollotas Fund Charity Kickball Tournament in Baker Park on May 29, 2010 with hours of operation from 2:00 p.m. to 6:00 p.m.

2nd by R. Jones

ALL in favor.

***Staff will prepare an Executive Summary and notify the applicant the date of the M&B meeting this item will be heard.*

- 4. Request by Pam Reppert, City Planner, regarding Homewood, Phase 1. Ms. Reppert, Mr. Andrew DiPasquale of Miles & Stockbridge and Mr. Kraig Walsleren of Rodgers Consulting were present for this item.

P. Reppert offered that the Planning Commission supported out of the 1.61 total parkland acres required that the applicant pay Fee-In-Lieu-Of (FILO) for 1.29 acres and credit the permitted .32 acres of private parkland. R. Myers stated that all proposed parkland on site is to be private. The 1.61 acres of required parkland is too small and the campus would not be open to the general public. The fee-in-lieu funds could be used elsewhere in the Parks system.

M. O'Connor asked for further clarification from the applicant. P. Reppert stated that the actual request for FILO is 1.29 (Phase I) acres and they are seeking a waiver of these fees.

Mr. DiPasquale stated they were here in April of 2009 requesting a waiver for FILO and that this Commission granted a partial waiver at a 20% credit for private parkland and 80% to be paid as FILO. The applicant remembers generalized discussion supporting FILO in the amount of \$25,000 though not approved or documented in the minutes. They then went through the site plan process, prepared an appraisal to calculate FILO and found that the payment would actually be \$250,000. They are back now to revisit their request for waiver of the fee-in-lieu parkland. In the past, Homewood has also dedicated eleven (11) acres of land to the City. R. Myers stated that land is completely unusable land as it is in the floodplain and wet a majority of the time.

Mr. DiPasquale further stated that the impact of this campus on existing parkland should be minimal since it is an institutional use, not a typical residential use. He inquired as to whether the Mayor and Board would come up with a FILO payment amount based on the appraisal. In checking in the Code, P. Reppert stated that according to the Land Management Code (LMC) the Mayor and Board have no latitude in adjusting the fee amount paid that is derived from the land appraisal. Mr. DiPasquale stated the appraisal they submitted was done by Bud McPherson in January of 2003 with a variety of scenarios. There are possibly some stipulations in the Annexation Agreement this Commission is not aware of at this time.

R. Myers offered that with the Hargett Farm parkland that was recently acquired, the City owes \$17 million dollars and any FILO for this project could definitely go to this fund. Further, he agrees this campus of senior citizens will have no public parkland and understands why they would not want it, but that does not let them off the hook for providing private parkland the public cannot use. There is a formula in place for this purpose. Homewood did give acreage off of Route 15 but the land is very unusable with only the possibility of the Shared Use Path to go through the area in the future. On adjacent properties there are existing neighborhood type parks.

P. Reppert inquired about providing public parkland with conservation or afforestation options. R. Myers stated they could come up with the 1.29 acres to add to the existing park. P. Reppert stated they cannot do this due to the fact it is a private

park and that there are limits to how much credit they can be credited for private parkland.

R. Myers further stated he did not want parkland that is one (1) acre in size as it is too small to maintain cost effectively.

M. O'Connor wanted to clarify that they came to this Commission in April of 2009, then to the Planning Commission in August of 2009 but never to the Mayor and Board. P. Reppert stated they received a conditional site plan approval by the Planning Commission which expires in one (1) year (August 10, 2010). R. Myers asked if the Planning Commission supported this Commission's recommendation which P. Reppert confirmed that the Planning Commission did.

M. O'Connor inquired if they are asking for reconsideration. Mr. DiPasquale stated that out of the Planning Commission approval they agreed to what this Commission recommended but there was no dollar figure attached. This campus will not be a significant impact to parks. Homewood also paid full market value for eleven (11) acres previously dedicated to the City with the original phase of this project which is complete. The applicant also stated they have issues with the LMC and its inconsistencies as applied to infill, elderly, etc. M. O'Connor stated he made a fair point, but parkland comes in many shapes, sizes and types. We do not want to minimize the importance of parkland for all types of activities.

R. Myers stated this Commission does not determine value, that is up to the Planning Commission and only they can recommend to the Mayor & Board. Mr. DiPasquale stated this Commission can give direction to the Planning Commission.

--Further discussion by all concerning Parkland and FILO issues--

J. Sill did not agree with a large FILO because the City will benefit from this project in other ways.

M. O'Connor inquired with Mr. DiPasquale about how you get into Homewood as a resident. Mr. DiPasquale offered that the number of units is 226 and you buy into a "life estate" type situation and don't really own the unit. Mr. O'Connor further calculated out the possible \$250,000 FILO payment out to be around \$1,000 per unit cost. R. Myers stated the same formula is used throughout the LMC and it was approved with others so why not this project. Mr. DiPasquale stated that of 100 acres 30 acres of parkland/open space is to be provided per the LMC. In their minds 30% of the area was provided with the previous donation of the eleven (11) acres and it should be a credit to this development. They will not be generating use on other areas. M. O'Connor inquired why not make the private parkland public? Mr. DiPasquale stated that this will be a private facility with controlled entrances. J. Sill further stated that this small amount of parkland and how it is proposed on the site plan would be a maintenance problem. Mr. DiPasquale further stated that this organization is 100% non-profit providing millions of dollars in care. There are different costs associated with each type of unit and it will operate as a campus. During the annexation process the obligations/proffers amounted to approximately \$800K and this parkland fee was unexpected.

R. Jones stated that you cannot equate events of ten (10) years ago to now. Mr. DiPasquale stated the City came to Homewood and they dedicated the land without charge.

P. Reppert stated there are three (3) choices - either take the parkland, charge FILO or grant a waiver of the fees. R. Myers further offered that means take 1.29 acres, \$250,000 or nothing and his recommendation was the FILO.

M. O'Connor inquired who can modify the fee. P. Reppert stated no one per the LMC as determined by the Mayor and Board. She further stated there are debatable issues with the LMC wording. Mr. DiPasquale stated there is an option to waive fees per LMC 608(A).

R. Jones asked why not get a recent appraisal since real estate has dropped it could be very different from the 2003 appraisal. Mr. DiPasquale stated that since the land has been rezoned, a new appraisal would actually hurt this request as the land value is greater now.

--Discussion of possible motion by all.--

The Commission was not comfortable with total large FILO though they are seeking legal alternatives for a combination of land and FILO or reduced FILO.

It was determined after more discussion that the group will discuss options with the City's Legal staff and look into a possible site plan extension if needed from the Planning Commission. R. Myers stated this Commission definitely needs Legal direction on this issue. This item will be heard at the March 2010 Parks & Recreation Commission meeting with a member of the Legal staff present to give guidance.

MOTION by J. Sill for a thirty (30) day continuance on this item and it is to be scheduled on the March 2010 agenda at the request of Homewood representatives;

2nd by R. Jones

ALL IN FAVOR.

R. Myers thanked the Commission for their healthy discussions tonight. Also, there will be two (2) items on the upcoming agenda - (1) Corporate Rates for Non-Profits to use the Talley Fitness Center which staff supports and (2) North End Civic Association / Staley Park issues. We will have a representative from the City's Legal Department present for this meeting.

Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Kristi A. Winterstein

Commission Secretary